

MILFORD PLANNING BOARD MINUTES

June 21, 2005, Board of Selectmen's Meeting Room, Town Hall, 6:30PM

PRESENT: Walter Murray, Jr, Chairman
Tom Sloan, Vice Chairman
Paul Blanchette
Betty Dishong
Noreen O'Connell
Steve Sareault
Paul Amato (arrived at 7:00PM)

Bill Parker, Director of Planning and Community Development
Shirley Wilson, Recording Secretary

Chris Beer, Perspective Alternate Member
Janet Langdell, Perspective Alternate Member
Judy Plant, Perspective Alternate Member
Susan Robinson, Perspective Alternate Member

6:30 PM Regular Meeting

MINUTES: Approval of 5/17/05 minutes and 4/5/05 worksession minutes.

OTHER BUSINESS:

1. **Badger Hill Subdivision** – Continuation of previously suspended subdivision revocation process.
(Tabled from 5/17/05)

NEW BUSINESS / PUBLIC HEARINGS:

2. **Henry Schoenemann/Paul T Butler Et. Al. – 66 Elm St. – Map 25, Lot 125.** Public Hearing for a minor site plan to allow a change of use to retail, and a garage addition. (New application)
3. **Edward Delage and Mark Delage – Old Wilton Rd – Map 14, Lot 7 and 7-1.** Public Hearing for amendments to conditionally approved site plans (4/19/05) for lots 7 and 7-1. (New application) SSE
4. **Kimberly Stapel and Mile Slip Development, LLC. – Mile Slip Road – Map 55, Lots 4 and 4-1.** Public Hearing for a lot line adjustment between lots 4 and 4-1. (New application) SSE
5. **Light of the World Christian Church – 273 Elm St. – Map 18, Lot 5.** Public Hearing for a Minor Site Plan Amendment to allow a temporary modular classroom within an approved footprint.
(New application for a change to an approved site plan)

OLD BUSINESS:

6. **Stabile Properties & Hampshire Hills Racquet Club/Danielson Realty Trust – Federal Hill Rd – Map 48, Lot 48.** Open Space Subdivision consisting of 73 single-family units.
(Tabled from 5/17/05) MLS
7. **Gauthier Brothers Concrete/Henry Kanner – Savage Rd – Map 6, Lots 33 and 33-1.** Major Site Plan for proposed contractor warehousing consisting of two separate buildings and parking.
(Tabled from 5/17/05) MLS
8. **Mitchell Brook Development, LLC. – “Boynton Hill” - Wolfer and Mile Slip Roads – Map 45, Lots 2, 3, 17, 20 and Map 50, Lot 1.** Continuation of Design Review for a major open space development. (Tabled from 5/17/05) MLS
9. **Debra Mitkus/John Caspersen – Elm St – Map 19, Lot 25-3.** Request for waiver of site plan review to allow a change of use for a restaurant and lounge with future retail space.
(Tabled from 5/17/05) TFM

The meeting was called to order at 6:30PM by Chairman Walter Murray, Jr. Chairman Murray introduced the Board and then added that he had come out of retirement.

Chairman Murray addressed Merv Newton regarding the audio in the room. W. Murray stated that Mr. Newton's memo had been received and advised everyone that the audio is on. Please let us know if you have any problems tonight.

1. Minutes: Steve Sareault made a motion to table approval of the minutes. Tom Sloan seconded and all in favor.

2. Badger Hill Subdivision – Continuation of previously suspended subdivision revocation process.

Chairman Murray recognized Harry Standel of Milford Millbrook Development who updated the Board by stating that as of the May meeting; the work was on schedule for completion on time. However, due to the weather, paving had to be pushed out. H. Standel distributed photos showing the completed work. Everything was ready for paving today, but there was additional work scope specified by the engineer on Friday. Further, after yesterday's meeting with the engineer, the work will be delayed even more. The preliminary paving work has been completed; the roadway patches, drainage, driveway aprons, catch basins added, loam and seeded areas. Fundamentally all that is left is the final paving, which is now scheduled for this Saturday, June 25th. The reason for pushing the paving to Saturday is that the State of NH is procuring materials from the Brox plant in Milford this week and changed the mix. To switch the mix back for our project would be a big process and more efficient to do the work on Saturday. Hereafter, only some minor work will need to be done after paving; where the road is scarred and to clean the catch basins. W. Murray asked Bill Ruoff, director of Public Works if he was satisfied with the way this project was moving forward and B. Ruoff replied yes.

Chairman Murray opened the floor for Board discussion. Steve Sareault questioned what Dufresne-Henry had added to the work list. H. Standel replied that a number of things were added to the list that should have been on the list in the first place, but most have been completed. The additional work involved concrete patches on the roadway done by a previous contractor. Dufresne-Henry specified certain broken up patches, which needed to be removed and redone before paving. Those patches were completed; however, more cracks became apparent last week and more patches will need to be removed. H. Standel agreed to the additional work and a site walk was held on Monday with the engineers and paving contractor to specify and organize the equipment for today. Unfortunately, another call from Dufresne-Henry was received yesterday afternoon, requiring that an additional 12' to 15' square be excavated and paved. H. Standel noted that the section was not originally intended for pavement. So, again the work scheduled for today was pushed back. A discussion regarding Dufresne-Henry worklists and the additional items followed. B. Ruoff, added that while he was satisfied with the work done so far at Badger Hill, he respectfully disagreed with Harry continually bashing Dufresne-Henry about what needs to be done out there. B. Ruoff stated that this project has been built over a period of time and has sat unfinished; and as a result, have deteriorated. All we're looking for is corrective measures. The engineers are not being unreasonable. B. Ruoff recommended that the Board table the project to the next meeting and allow Mr. Standel to put the overlay down. There has been had a lot of rain and the Town crews wouldn't have been able to pave either. H. Standel noted that he doesn't disagree with anything Bill said, but that the additions have added delays in the completion of the project. Another discussion regarding Dufresne-Henry's reviews and worklists followed.

H. Standel asked for a three week extension and if the work should be finished within the next week or so, would like to get the threat of revocation removed as quickly as possible. B. Ruoff noted that Mr. Standel has made a commitment and we have extended the timeframe because of the weather. B. Ruoff also said that he thoroughly understood the problems Mr. Standel has had with the asphalt plant making a specific mix for a specific job, in this case the State; but the paving contractor has made arrangements with Brox to secure plant for their mix on Saturday. As far as B. Ruoff is concerned, Saturday is the date. B. Ruoff offered that he and B. Parker could meet prior to the next worksession to go over what has been accomplished and bring a determination to the Board at that time. B. Ruoff added that even after paving, there would still be a punch list and that the process of road acceptance could take a couple of months. We must not lose sight that the Planning Board would still have to petition the Board of Selectmen. H. Standel reiterated that once the physical work is in place, it is very important for the threat of revocation be removed. B. Parker clarified the process for the Board.

S. Sareault made a motion to table to the July 5th worksession and grant an extension of two weeks for the completion of the work at Badger Hill in accordance with the Department of Public Works. Tom Sloan seconded and all in favor.

Carl Morris of 50 Deerwood Dr advised the Board that not all the work has been completed; not all the topsoil has been seeded and there are two underground propane tanks still buried. W. Murray suggested that Mr. Morris put this in writing and submit to Mr. Parker in the Planning Office.

Henry Schoenemann/Paul T Butler Et. Al. – 66 Elm St. – Map 25, Lot 125. Public Hearing for a minor site plan to allow a change of use to retail, and a garage addition.

The applicant has withdrawn the application and asked to be removed entirely from the agenda.

Kimberly Stapel and Mile Slip Development, LLC. – Mile Slip Road – Map 55, Lots 4 and 4-1. Public Hearing for a lot line adjustment between lots 4 and 4-1.

S. Sareault made a motion that this application posed no regional impact. T. Sloan seconded and all in favor. S. Sareault then made a motion to accept the application. T. Sloan seconded and all in favor. Shirley Wilson read the abutters list.

Chairman Murray recognized Raymond Shea of Sandford Surveying and Engineering representing both the applicant and owner. R. Shea presented a plan for the proposed lot line adjustment located on the easterly side of Mile Slip Road. The adjustment would take approximately two acres from lot 4, a vacant 11 acre parcel, and expand Lot 4-1 from .956 acres to 3.224 acres. There would be no additional building lots just the conveyance of land to the homeowner instead of an easement. Noreen O'Connell added that this lot line adjustment is being done at the request of the Board of Selectmen for the Mile Slip land purchase to have a clean deed; not to have any easements on town land. Ms. Stapel's parents originally owned the land (lot 4) and had given her this use easement. The Town vote did not include this. Steve Moheban representing Mile Slip Development, LLC clarified that this was a condition of the purchase and sale agreement between Mile Slip Development, LLC and the Town. Town counsel did not want any encumbrances. B. Parker confirmed that this plan has been approved by town counsel.

Chairman Murray opened the hearing to the audience; there was no discussion.

T. Sloan inquired about the additional frontage. R. Shea replied that the plan would be adding 210 feet of new frontage totaling 360 feet and there would be no subdivision clause. B. Parker added that any subdivision would need a variance for frontage from the Zoning Board of Adjustment.

S. Sareault made a motion to approve the application subject to staff recommendations. P. Amato seconded and all in favor.

Light of the World Christian Church – 273 Elm St. – Map 18, Lot 5. Public Hearing for a Minor Site Plan Amendment to allow a temporary modular classroom within an approved footprint.

Chairman Murray recognized Suzie Bruckner, facility manager for Light of the World Christian Church, who came before the Board to ask for approval to put up the temporary classroom structure. The structure would be purchased from the Schiavi Leasing Corporation, manufacturers of commercial classroom and trailers. There would be a connector from the proposed trailer to the main building. N. O'Connell asked about the time frame. S. Bruckner replied that the Church would like to put up the classroom in July to get the grounds settled for the start of school in September. Paul Blanchette questioned how long the temporary classrooms would be in use. S. Bruckner guessed one to two years, but this would provide the space needed for the upcoming school year.

B. Parker confirmed that this application is only for an amendment. The approved site plan is still in place. Only part of the addition from the original site plan was built and this temporary structure would go where the proposed gymnasium/all purpose wing was intended to go on the approved site plan. S. Sareault asked the definition of temporary. Do we want to put a limit on the Board's action; such as grant the amendment for one year and then have the applicant come back for an extension? N. O'Connell also questioned "temporary" but would consider a two-year time frame.

W. Murray opened the hearing to the audience, but there was no discussion.

T. Sloan made a motion to approve the amendment to allow the placement of a temporary modular classroom on the current site within the approved footprint until July, 2007, when re-application would be necessary. P. Blanchette seconded and all in favor.

* Merv Newton advised Chairman Murray that he couldn't hear the proceedings. One table speaker was moved closer to the west side of the table so S. Sareault and P. Blanchette could be heard better.

Paul Amato arrived.

Stabile Properties & Hampshire Hills Racquet Club/Danielson Realty Trust – Federal Hill Rd – Map 48, Lot 48. Open Space Subdivision consisting of 73 single-family units. *(Tabled from 5/17/05)*

Chairman Murray recognized Moe Paquette of the Stabile Company. M. Paquette then proceeded by saying that at the last meeting, they left off with some abutter issues which they now feel have been addressed. They had continued engineering review, resubmitted the plans and are now waiting for final engineering review. The plan hasn't changed any, just clean up on the utilities.

N. O'Connell asked if the abutters received satisfactory contracts regarding the water. M. Hollis answered yes.

Ryan Breton, 105 Federal Hill Rd, stated that they as a group of abutters got together last week and felt as though the contract that was given to them was inadequate as far as the water testing was concerned. The group of homeowners would be looking for a Planning Board member to meet with them and help revise the contract and possibly speak on their behalf regarding their concerns on testing frequency, amount of transducers, and temporary water provisions. P. Amato verified that the developer provided them with a legal document to address the water concerns and that they have some potential legal issues with the legal document. P. Amato then suggested hiring a lawyer for the group as the Planning Board is not qualified to mediate in legal issues. M. Paquette stated that M. Hollis, our attorney, had tried on several occasions to sit with the abutters and address their concerns. M. Paquette conveyed that there were some concerns with the testing to be done and one of the suggestions was to hire an independent consultant, a third party who would be unbiased. Again, M. Paquette noted that all of this is based on "if" we have to blast and "if" there is some damage to the wells, they would take responsibility. There may not be any damage to the wells at all. With a project like this, there is a site contractor who has a liability and a blasting contractor who has a liability and there are pre-blast surveys. Test pits were dug and boulders not ledge were hit. M. Paquette reiterated that they were willing to work with the abutters and come to some kind of common ground, but felt that they were reaching out far beyond what was normally required.

John Kendall, 75 Federal Hill Rd said that he did meet with Nathan Chamberlin and Mark Fougere regarding the issues, but still has some questions about the water runoff; how it will be regulated and metered. J. Kendall is also concerned with the detention pond and culvert, and a wet area on his property directly across from the north street. This was compared to the erosion problems at Wallingford Rd. J. Kendall also noted that the contracts were mailed on June 23rd and the meeting took place on June 25th. He is a busy man and it is difficult to read a contract in one night, and for him, that is not reaching out.

S. Sareault stated that this project has been before the Board for a while and the same issues are still outstanding. He said that the Planning Board is not the authority on these issues, and our experts, Town counsel, staff and the professionals we have, should be the ones to confirm or deny whether the solutions are correct. Maybe this is an appropriate time for conditional approval with a compliance hearing with abutter notification for resolution of all permits, abutter issues, engineering and staff review, P. Amato agreed that this Board has been through the issues, raised the issues and they have still not been resolved. A compliance hearing will be scheduled when everything is done; the State permits, easements signed, development agreement, covenant, all is done.

John Baer, 115 Federal Hill Rd reiterated what Ryan said earlier that the contract doesn't meet their needs. This is a legal document that needs to be clear and precise because it is only valid if taken to court. We've tried to make a couple of iterations to come up with a document that we can agree with and that apparently isn't working. We want the opportunity to get something together through an unbiased third party. He further asked what conditional approval meant and would the developer be less likely to negotiate with conditional approval? B. Parker, Planning Director, added that conditional approval gives the developer enough of a comfort level to go ahead with the financing aspects of the project. No work permits could be obtained until the plan is signed. The plan won't be signed until the Planning Board is comfortable that all conditions have been met, so no site work could be started. S. Sareault added that there would be no right to start digging, but it would get this project off the agenda. It would be inappropriate for the Planning Board to intervene further. B. Parker noted that it leaves the burden of finishing with the applicant. P. Amato said that they can't move on without resolution of the issues; that it is incentive to work with the abutters.

M. Hollis restated the Board's concern regarding the impact on the neighbors' wells and doesn't preclude any property owner from additional compensation. The agreements are simply a mechanism to establish testing at the developer's cost and expense and are an unprecedented move for residential development like this. We are now in the third reiteration of the agreement as a result of comments and responses. Some owners have agreed, some have never responded, and about three people have registered a series of complaints with Mr. Kendall and Mr. Baer among them. Some of the tests requested are simply not relevant, and our consultant said that testing for coliform is not relevant to a construction project. M. Hollis advised the Board of some of the other requests from people who say "We don't care whether you caused the damage or not, we demand you to extend the water to our house at your cost." "If you damage the well, you must replace the well, even if it takes multiple drillings, you must replace the well." M. Hollis questioned if that was reasonable, when they don't think any of that is going to

happen anyway. What the Board does when granting conditional approval based on a condition of satisfying neighbor concerns for the compliance hearing, is give the owners an open checkbook from the developer.

M. Hollis offered a response to the time frame of the letter and meeting dates in June: The letter said take your time but that there will be a meeting, and that was short notice, but that was the only time frame they had to work with. Two people were heard from who came and two who couldn't come. No one else was heard from for the meeting. Aside from Mr. Baer's letter last week, no one else has replied. Duane Bottazzi of 57 Federal Hill Rd interjected that he didn't get any letter. M. Hollis apologized to Mr. Bottazzi and said the letter was mailed but never reached the intended.

M. Hollis stated that they are trying to be consistent. There is nothing preventing the neighbors from bringing in their own consultants and testing their own water. The point is that there are two or three people wanting more. We are willing to extend as much time as anyone is asking for, but it is not fair to require the developer to come to all neighbor's terms. J. Kendall brought up monitoring wells, especially in such a fragile area for wells, and a discussion regarding well monitoring, trends, and testing them followed. S. Sareault stated that the Board does not have the expertise to determine this matter. S. Sareault commented to the applicant's counsel that should we get to a point where the applicant feels is an undue burden the Board could act on some level of resolution.

Matt DiPilato, a geotechnical engineer with thirty years experience and Vice-president of Sandborn & Head Associates introduced himself as the consultant for geologic related issues for this project. M. DiPilato stated that water levels would be monitored as described in the monitoring plan and discussed the added component to install pressure transducers in one abutting bedrock well and one abutting dug well. In addition a pressure transducer will be installed in a dug well on an up gradient setting outside the influence of the project to establish a background well. The transducers would be set to read water levels every hour for as long as the project goes. A record will be established and the data could be used in conjunction with the data from the other well monitoring. A baseline of data will be determined for external conditions. The baseline date can monitor water levels address if a well is dropping due to a dry summer or due to construction. J. Kendall interjected that this information is not in the agreement. M. DiPilato reiterated that this information is in the monitoring plan. J. Baer stated that this type of testing doesn't test the yield of the well, only water levels. His two main concerns are the quality of the water and that quantity isn't affected. A discussion regarding water testing, times, and levels followed. N. O'Connell asked if abutters had read the original geological report and thinks they do need to see this report. This report addresses several issues brought up tonight; page two talks about the gallons per minute and page four addresses the blasting impact. M. Hollis noted that no one has asked for it and that it had been submitted to the Board just recently. J. Kendall said that they will make copies if given one report.

P. Blanchette asked if stormwater runoff had been addressed with the abutters of which several have issues with. N. Chamberlin offered that stormwater has been discussed at several meetings and calculations have been reviewed by three state agencies. N. O'Connell added that a statement was made several meetings ago by the developer, the Town and the State, since it's a seasonal road that they are working to mitigating sheeting on Federal Hill Rd. N. Chamberlin said that they met with the State also discussed the under drain, and requested catch basin. The flow will handle the runoff better. N. Chamberlin added that this proposed plan will help to alleviate icing that occurs in the winter. D. Bottazzi suggested that if everyone is so sure about the drainage, then they should put it in black and white.

Alexandra Baer, 115 Federal Hill Rd reiterated that the contract is a legal document and stated that they are not trying to be difficult. The original contract stated that it would be Stabile's choice regarding resolution of the problem and that means they would have no say in whether the well will be replaced or if they would be hooked up to the water system. The contract also does not clarify "immediate" resolution to the problem; is that twenty-four hours, forty-eight hours or a month? They have families and little children and need to be prepared for the worst case scenario and want to be able to understand the wording of the contracts.

Chairman Murray recognized Merv Newton who presented his concerns regarding the proposed water system. M. Newton stated that an email was sent to the Planning Board on May 16, 2005 and he wanted to know what has been done in regards to looking at the location of the water and sewer lines. He said that yes, the lines were on the Master Plan, but the road has changed and that good construction requires that the lines run along streets, in this case along Ponemah Hill Rd, Emerson Rd and up Federal Hill Rd. The two projects, Hampshire Hills and the water for the seventy-three condos, shouldn't be confused. Hampshire Hills should get their service from Emerson Rd and the condo hookups should come off Federal Hill Rd. The contractor shouldn't be allowed to cut costs at the detriment of the water system and this proposal cuts corners. The developer also received an impact fee waiver and there should be a good public benefit and there isn't. If we had a water commission today, this would not be allowed, explained Mr. Newton who stated he was on the water and sewer commission study committed.

M. Newton then addressed the second point; that over the years the Board of Selectmen has given away our franchise over 390ft. The voters said a number of years ago, that we do not want to sell our water system to Pennichuck, but now we're giving it away.

The Federal Hill Rd entrance for the condo development is at less than 390ft, the water system could be serviced by our own water district. There is no reason why the Town should not own this system. Pennichuck normally marks up the price. Milford could provide the water for less. At the last Board of Selectmen meeting Stabile and Hampshire Hills representatives suggested that the Mile Away Restaurant and Chappell were interested in getting water. These easements must be recorded and the cost determined. He asked if they will have to pay Hampshire Hills and Stabile to access the water. It was also mentioned that the water extension was in the Capital Improvements Plan to extend the water system, but there is no money available to do that. The public interest should be best served here and the Town only gets limited benefits.

Rick Holder of Hampshire Hills pointed out that even if the Town were building this project and paying for it as suggested, Hampshire Hills had received assurances that after the many tax dollars paid that they would be getting some kind of water at some point. Mr. Newton was not in attendance at any of the dozens of meetings with the Selectmen and would have heard then that there was no money. At this point, private funds will pay for the service and there will be public benefit as far as the service will be on public land. It would be faulty logic to suggest that it should only accrue to the benefit of the public when the cost will be totally born privately.

Ray Nichols, 72 Federal Hill Rd expressed his concern with the retention pond. There is nothing in the plan to protect the neighborhood children and there could be possible safety issues. N. Chamberlin clarified that the plan proposes a detention basin not retention pond and will be dry 90% of the time. A fence could be installed, but since this is the gateway to the project, the area should be enhanced. P. Amato added that there is a detention basin on his property currently and it has to be mowed. If it works as designed, the water will not stay in the basin. N. Chamberlin also noted that the basin is bound by stone walls on two sides.

At this point, S. Sareault made a motion to grant conditional approval of the application subject to a compliance hearing with abutter notification to be scheduled prior to the signing of the plan, to incorporate the finalization of engineering, legal documentation, easements, state permitting, the development agreement and resolution and agreement of abutter issues. N. O'Connell seconded and all in favor. A discussion regarding the time frame for setting the compliance hearing then followed. B. Parker ended by saying that he will assist with the dates.

A member of the audience asked about a third contract for the well agreements. P. Amato replied that all contracts would be signed prior to the compliance hearing. M. Hollis discussed the different agreements and stated that each contract would be tailored to the individual owners. W. Murray then asked for the discussions to be taken out to the lobby.

Gauthier Brothers Concrete/Henry Kanner – Savage Rd – Map 6, Lots 33 and 33-1. Major Site Plan for proposed contractor warehousing consisting of two separate buildings and parking.

Chairman Murray recognized Bill Davidson of Meridian Land Services who began by saying that the last meeting ended with the building façade needing resolution. The owner, Scott Gauthier decided to put tan colored, hearty plank siding on the east side of the building, bringing it to the pavement. The doors and windows would be trimmed with white azek, a composite plastic material with low maintenance. The remaining sides of the building would be composed of tan metal siding and the roof would be aluminum. N. O'Connell asked if the clapboard would be similar to what will be going on the Police Station. P. Amato said yes and that it was a type of cement board; it would be heavy, durable and versatile. S. Sareault called it cementitious and then asked if the applicant was aware of the most recent staff recommendations. B. Parker confirmed that all recommendations were the same as from the past memos; some of which have already been addressed with the last set of plans.

N. O'Connell asked if the use of the back building had changed. S. Gauthier replied that as discussed before, the uses would be light industrial, manufacturing and warehousing, but that he would try to limit the back to warehousing. N. O'Connell stated that although the appearance of the building has been addressed, she is still concerned with the use for the back building. She is not comfortable having light manufacturing with only one window or door; and the only way she will agree to this site plan would be to stipulate that the back building will be used for storage only. A discussion pertaining to the uses of the building and units followed. S. Sareault noted that Ms. O'Connell's motive is right, but this should be left to the building and fire officials. S. Sareault also said that plan doesn't quite mirror note #2 of the staff recommendations, which he read aloud and then specified that the uses needed to be very explicit. B. Davidson responded that the exact wording would be added to the plan as a note.

S. Sareault made a motion to conditionally approve the plan subject to staff recommendations from a memo dated June 23, 2005. T. Sloan seconded with B. Dishong, T. Sloan, P. Blanchette, S. Sareault and W. Murray voting in the affirmative and with P. Amato and N. O'Connell voting in the negative.

Mitchell Brook Development, LLC. – “Boynton Hill” - Wolfer and Mile Slip Roads – Map 45, Lots 2, 3, 17, 20 and Map 50, Lot 1. Continuation of Design Review for a major open space development. *(Tabled from 5/17/05)*

P. Amato offered to step down as he is an abutter; however, since no alternate was available to sit in, he stayed at the table but will not vote.

Chairman Murray recognized Nathan Chamberlin of Meridian Land Services. N. Chamberlin discussed the history and presented the same plan as at the last meeting to get the conventional subdivision and the lot density approved for this project. N. Chamberlin reviewed the details of the plan briefly and then noted that the plan met all Planning Board requirements and that no waivers were being asked for tonight. Dufresne-Henry has already approved the density. The applicant is asking the Board to approve the density so that they may move forward with the Open Space design. On the Open Space design, they would be looking for a waiver for an 8% grade for approximately 1,500 feet of road. S. Sareault asked if there would be any waivers of driveways to prove out the underlying subdivision. N. Chamberlin replied that any problematic ones were graded out. N. O'Connell questioned a waiver for the entrance of the road. N. Chamberlin answered that when they go to the Open Space design they would be asking for a waiver. It can be done without a waiver, as this conventional plan shows, but would be better engineering to do with a waiver to minimize the cuts on the hills. B. Parker stated that although this exact plan did not go to Dufresne-Henry, all the lots are basically the same as the original plan that did go to Dufresne-Henry. There were only a few minor changes between the plans and those changes were a direct result of the second entrance. N. O'Connell asked if the cul-de-sacs were less than 600ft and B. Parker confirmed.

N. Chamberlin said they were asking for a density of ninety-seven (97) lots on 281 acres. Andy Prolman, counsel for the applicant added that each lot would be 2.6 acres as stated in a May 12, 2005 memo from Jay Heavisides to Bill Parker. B. Parker also confirmed that Town counsel determined this to be the same application as originally submitted and could continue through the design review process. W. Murray commented that a facilities study should be done for the simple reason of emergency response times and he felt that approval of density at this time would be premature. S. Sareault replied that in the past, the Board had made a finding on the maximum density before the applicant got into all the studies. S. Sareault proposed a correction to the memo from Bill Parker dated June 15, 2005 regarding the proposed traffic impact study to reflect the intersection of Mason Rd and McGettigan Rd instead of Mason Rd and Savage Rd. A discussion regarding the impacted traffic areas followed.

N. O'Connell stated that she cannot find reason to reduce the number of conventional lots other than the number of wetland crossings, but also is very concerned with the traffic impact to Mason Rd and would like to look at pedestrian areas so that we could have room on that road for bicycles and walkers. P. Amato noted that it is a great idea, but is not sure the Town owns enough land along the road. A. Prolman offered that they were going to propose that Steve Pernaw of Pernaw Engineering to do the traffic study at your discretion.

Chairman Murray opened the meeting to the audience. Alfred Karnis of 686 Mason Rd asked if the sight distance issue at the entrance of Boynton Hill Rd had been resolved. B. Parker answered that the developer, Frank Kling met with Jay Heavisides of Meridian Land Services and Mr. Birkett, the landowner and an agreement was reached where Mr. Birkett would grant an easement to the Town so that the slope could be cut back in exchange for some property on Boynton Hill Rd and landscaping.

S. Sareault said that if the Board is of the opinion that the density approval is premature, then we owe the applicant that determination. N. O'Connell added that the department heads have not seen this. Input from the ambulance, police and fire departments is needed before the applicants start spending their money. W. Murray stated that according to Chief Pauley, response time from downtown to Heron Pond Rd is 5 minutes 30 seconds and from Heron Pond Rd to the end of Mile Slip Rd is 7 ½ minutes. T. Sloan asked what the water source would be. N. Chamberlin replied that there would be on site wells. A. Prolman then added that this project will go through a long planning process; the applicant is aware of the impending studies and there are no objections to the issues of sprinklers in the houses or working with Town departments. Tonight they are only looking to get the density set and to scope out what studies will be needed and who the Board wants us to talk to. W. Murray stated that the applicant knew there were many issues last year when they originally came before the Board. W. Murray also suggested that a substation for fire and ambulance at the west end of town might be something to consider and these preliminary issues were discussed tonight to make the applicant aware of possible impact fees.

T. Sloan questioned approving density without considering potential regional impact. B. Parker said that having the applicant look at traffic and facilities will help determine if the density is scattered and premature and may bring up issues that they are not willing to address. As far as regional impact, that certainly has to come, but should be sent out with some number of units so that the reviewing agencies have an idea of what they are looking at. S. Sareault added that the density determination is only a maximum number of lots allowed and under our own regulations; they've done the work to formulate the density determination. P. Amato noted that making Mile Slip Rd a non dead-end road could open up the area to more development. N. O'Connell said that wouldn't have anything to do with this project and suggested that the whole area be looked at in an step-by-step manor. Tonight's decision is whether 97 lots will fit on this property. B. Parker added that with the Town's purchase of the Mile Slip land, there are still another 100 lots possible and the traffic study would incorporate future potential traffic out there.

S. Sareault made a motion for a determination under our Open Space subdivision regulations that the underlying district supports a maximum density of 97 lots. T. Sloan seconded and all in favor with P. Amato abstaining.

A. Prolman then asked for the Board's direction in how to scope the various studies to be done; obviously there are traffic, facilities, and wetlands. B. Parker offered that given this Board's philosophy, a formal application probably wouldn't be accepted without the studies, so the applicant should begin by working with staff to determine what information is out there and what work is to be done. S. Sareault said that given what we just went through with Stabile, we should have a hydro geological study and might want to take a look at the wells. B. Parker stated that we have a lot of information available from the Cost of Services study. N. O'Connell reiterated her concerns with the impact of traffic on Mason Rd, which is a small rural road. P. Amato added that there are many historical homes along Mason Rd. and gave a history of Mile Slip Rd.

B. Parker followed up on the subject of regional impact and in consideration of the process, suggested that if the regional impact hearing could go forward, we might get some information that could be included in the traffic and other studies. A. Prolman stated that the application would not be ready for some time and asked for clarification of the regional impact hearing process. S. Sareault replied that in the past, the regional impact hearing process began when the application was submitted to the Board; and the Board would then kick it to the Nashua Regional Planning Commission (NRPC) and to the neighboring communities. A. Prolman suggested that if regional determination is made tonight, they would know that when the formal application is submitted, and it could simultaneously go to the NRPC and surrounding towns. A discussion followed. B. Parker then read Chapter 36, Section 36.55, of the NH Planning and Land Use Regulations aloud; "development of regional impact" means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following: Relative size or number of dwelling units as compared with existing stock; Proximity to the borders of a neighboring community; Transportation networks; Anticipated emissions such as light, noise, smoke, odors, or particles; Proximity to aquifers or surface waters which transcend municipal boundaries.

N. O'Connell made a motion that this development has the potential of regional impact. S. Sareault seconded and all in favor.

Debra Mitkus/John Caspersen – Elm St – Map 19, Lot 25-3. Request for waiver of site plan review to allow a change of use for a restaurant and lounge with future retail space. (*Tabled from 5/17/05*)

Chairman Murray recognized Andy Prolman representing Debra Mitkus of the Black Paw Tavern who stated that the applicant was requesting a waiver of site plan review, as there were no changes to the existing approved site plan. Kent Lorden of Arencos had been chosen as the site engineer and architect. Andy and Kent met with the Fire Department and there were no concerns with fire code or life/safety. Andy and Kent also met with Chief Fred Douglas; arrangements have been made and agreed upon for a police detail plan at the onset of the opening of the restaurant. Police details will start out on Friday and Saturday nights for the initial three months and the plan may be expanded or reduced depending on the circumstances. S. Sareault stated that he was advised of the Chief's comfort level with this plan in place. N. O'Connell reiterated that the police details would be at the owner's expense and would be in writing. Debra Mitkus verified that they would and the cost would be \$30 per hour for the patrol and \$38 per hour for a cruiser.

T. Sloan reminded the applicant that the two adjacent parts of the building would be exempt from this waiver. A. Prolman advised the Board that any change of use would have to come back.

Chairman Murray opened the meeting to the audience, with no discussion.

P. Amato made a motion to grant a waiver of site plan review for the change of use to a restaurant and lounge. S. Sareault seconded with discussion. S. Sareault recommended that the conditions of the Police Department details be attached to the motion. P. Amato amended the motion to attach the conditions of the Police Department details. S. Sareault seconded and all voted in favor.

Edward Delage and Mark Delage – Old Wilton Rd – Map 14, Lot 7 and 7-1. Public Hearing for amendments to conditionally approved site plans (4/19/05) for lots 7 and 7-1. (*New application*)

S. Sareault made a motion that this application posed no regional impact. P. Amato seconded and all in favor. Shirley Wilson read the abutters list. S. Sareault then made a motion to accept the application. P. Amato seconded and all in favor.

Chairman Murray recognized Raymond Shea of Sandford Surveying and Engineering who represented the owner, Mark Delage of MD's Trash. R. Shea stated that two months ago, the applicants received subdivision and site plan approvals and then described the two main changes to the site plan. The proposed parking layout had changed from the original site plan on the

northerly lot and the proposed parking surface had been changed to crushed stone instead of pavement per the original site plans of both lots. P. Amato added that the drainage was different as well. R. Shea confirmed that the drainage had been moved to the north and noted that the new plan also showed the location of the future building.

M. Delage stated that he was looking to add to the proposed 2,800 SF building and that he wanted to be up front about future expansion. S. Sareault suggested that any future expansion come back for site plan approval. A discussion regarding the future building followed. S. Sareault then questioned current use versus future use, if sold. M. Delage replied that he doesn't plan on selling but wondered if the building would have to stay as MD's Trash or could he rent bays. P. Amato stated that from the Board's standpoint, the building and future uses would have to comply with industrial uses as this is an industrial site and N. O'Connell added that would be the reason enough to come back to the Board with future expansion.

N. O'Connell had received complaints over the past year regarding outside storage and we need to make sure that this site does not become a junkyard. P. Amato then initiated a discussion regarding outside storage. B. Parker stated that a note could be added to the plan should the Board wants to limit or specify any outside storage facilities. M. Delage added that he would like to change the sign on the front lot and is aware that any lighting would need to be downcast.

P. Amato made a motion to approve the amended site plans as shown with a note added to the plan for lot 14-1 that any additional building would have to come back to the Planning Board for site plan approval. P. Blanchette seconded and all in favor.

The meeting was adjourned at 9:20PM.

MINUTES OF THE JUNE 21, 2005 PLANNING BOARD MEETING APPROVED JULY 19, 2005.

Motion to approve: Betty Dishong

Motion to second: Paul Amato

Signature of the Chairman/Vice-Chairman: _____ Date: _____